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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. ~~880~~. 122.

THE STATE OF ARKANSAS AND JOHN A. HINKLE, AS SHERIFF OF INDEPENDENCE COUNTY, ARKANSAS, APPELLANTS,

vs.

CHARLES A. M. SCHLIERHOLZ.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

FILED AUGUST 10, 1899.

(17,494.)

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 380.

THE STATE OF ARKANSAS AND JOHN A. HINKLE, AS SHERIFF OF INDEPENDENCE COUNTY, ARKANSAS, APPELLANTS,

vs.

CHARLES A. M. SCHLIERHOLZ.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., AUGUST 19, 1899.

1 To the Honorable John A. Williams, U. S. district judge, eastern district of Arkansas:

Your petitioner, Charles A. M. Schlierholz, would respectfully represent that he is now and for more than three years past has been a special agent of the General Land Office of the United States, under the Department of the Interior of the United States; that as such special agent he was directed by his superior officer, the Hon. Commissioner of the General Land Office of the United States, to go to the State of Arkansas and seize any timber unlawfully cut from the lands of the United States on the property of the United States, to brand *them* as such, and report to him for directions, or to inform the attorney of the United States for the said district thereof, that he may institute such proceedings, or direct him what to do with such timber as may be lawful and proper in the premises.

Your petitioner would further state that in conformity with said instructions and directions of the Commissioner of the General Land Office of the U. S. your petitioner, in the spring of 1898, came to the county of Independence, in the State of Arkansas, for the discharge of his duties as such special agent, in strict conformity with the directions and regulations of said Commissioner, seized several rafts of timber which had been unlawfully cut from the lands of the United States and were the property of the U. S., and in order to identify them on having been seized by him, as aforesaid, he branded *them* with the letters "U. S.;" all of which acts were done by him in the performance of his duties as such special agent, as aforesaid, and under the regulations and instructions of said General Land Office.

That at the spring term, 1899, of the Independence circuit court the grand jury of said county, at the instigation of certain parties, who desired to embarrass and prevent your petitioner from
2 discharging his duties as such officer, returned two true bills of indictment against him, but which he has not yet seen nor been able to see, on which warrants of arrest were issued against him out of said court, directed to the sheriff of the said county of Independence, copies of which are herewith filed, marked 1 & 2.

That by virtue of said warrants the said sheriff arrested your petitioner and now holds him in his custody and prevents him from discharging his duties as such officer.

Your petitioner submits that for any lawful acts done by him in the discharge of his duties as such special agent and under the directions of his said superior officer he is not amenable to the said State court, and that unless released by this court from said imprisonment, which is unlawful, he will be unable to perform his duties as an officer.

Wherefore he prays for a writ of *habeas corpus* in order that the cause of his imprisonment may be inquired into, and that pending these proceedings he may be permitted to give bail for his appearance to the marshal of the United States, and that upon the hearing hereof he be discharged.

CH. A. M. SCHLIERHOLZ,
By JACOB TRIEBER,
U. S. Attorney.

U. S. OF AMERICA, }
East. Dist. of Arkansas. }

The petitioner, Ch. A. M. Schlierholz, states on oath that the statements in the foregoing petition are true.

CHAS. A. M. SCHLIERHOLZ.

Subscriber and sworn to before me this 3rd day of May, 1899.

JOSEPH W. PARSE, *Clerk.*

Upon reading the within petition it is ordered by me that the clerk of the United States district court for the northern division of the eastern dist. of Arkansas issue a writ of *habeas corpus* for
3 the petitioner, Charles A. M. Schlierholz, directed to the sheriff of Independence county, Arkansas, and have served a copy of the said writ on the said sheriff, and also on the attorney for the State of Arkansas for the third judicial circuit, and make them returnable forthwith, and that pending such proceedings the said Schlierholz be placed in the custody of the United States marshall of this district, and upon executing a bond to the United States in the sum of $500.00, to abide the action in this cause, he be released.

Witness my hand as U. S. judge of the eastern district of Arkansas this 23rd day of May, 1899.

JNO. A. WILLIAMS,
U. S. Judge.

(Filed in my office May 23rd, 1899.

JOSEPH W. PARSE, *Clerk.*)

4 The President of the United States to the sheriff of Independence county, Arkansas:

You are commanded to have the body of Charles A. M. Schlierholz, detained in your custody, as it is said, together with the day and cause of his being taken, before the Hon. John A. Williams, United States district judge for the eastern district of Arkansas, at his chambers, in the city of Batesville, Arkansas, forthwith, and then and there state in writing the term and cause of his imprisonment and produce your authority for so doing; and hereof you are not to fail under the heavy penalties denounced by law against those who disobey this writ, and to submit to and receive all those things which shall then and there be adjudged in this behalf.

And the marshal of the United States for the eastern district of Arkansas will serve this writ by delivering a copy to the said sheriff of Independence county, and also to S. D. Campbell, Esq., the attorney for the State of Arkansas for the third judicial circuit.

This writ is issued in pursuance of the order of the Hon. John A. Williams, judge, as aforesaid, directed to me, as clerk of the district court of the United States for the northern division of the eastern district of Arkansas.

In testimony whereof witness the Hon. John A. Williams, judge

of said district court, and the seal of said court, this 23rd day of May, 1899.

(Signed) JOSEPH W. PARSE, *Clerk.*

5 *In re* CHARLES A. M. SCHLIERHOLZ.

To the Hon. John A. Williams, judge of the district court for the northern division of the eastern district of the State of Arkansas:

The State of Arkansas, by S. D. Campbell, her attorney, and being joined in this petition by John A. Hinkle, sheriff, respectfully pray your honor, before whom the above-entitled proceedings are pending, to refer said proceedings to the district court for the northern division of the eastern district of the State of Arkansas, the said court being now in session at Batesville, Arkansas, in its regular May term, 1899, that said cause be docketed in said court, and that your honor hear said proceedings sitting as said court, to the end that all of said proceedings may be of record in said court and the orders thereon be the orders and judgement of said court.

S. D. CAMPBELL,

Prosecution Attorney for the 3rd Judicial Circuit of Arkansas for State of Arkansas and John A. Hinkle.

6 To the Honorable John A. Williams, judge of the district court for the northern division of the eastern district of the State of Arkansas:

John A. Hinkle, as sheriff of Independence county, State of Arkansas, to whom the annexed writ is directed, has now here before your honor the body of Charles A. M. Schlierholz, therein named, as thereby commanded; and I certify that the cause of detention of the said Charles A. M. Schlierholz is a warrant commitment directed to me, as such sheriff of Independence county, in whose custody the said Charles A. M. Schlierholz was and is by virtue of such warrant, which was duly issued by the clerk of the circuit court of Independence county, State of Arkansas, I having taken the said Charles A. M. Schlierholz into my custody under said warrant in Independence county, Arkansas, on the 23rd day of May, 1899. A copy of said warrant is hereto annexed, marked Exhibit "A" hereto, and made a part hereof (which warrant is numbered 410); which said warrant was issued upon an indictment, duly returned into the circuit court of said Independence county, State of Arkansas, by a grand jury of said Independence county on the 7th day of April, 1899, the same being a day of the spring term, 1899, of said circuit court, the said Charles A. M. Schlierholz being charged in said indictment with unlawfully taking possession of timber in violation of the statute laws of the State of Arkansas.

And, further responding, the said John A. Hinkle, as such sheriff of Independence county, says in answer to the writ herein—

That he also has the said Charles A. M. Schlierholz in his custody, and he certifies that the cause of the detention of the said Charles A. M. Schlierholz is a warrant commitment directed to him

by the clerk of the circuit court of Independence county, State of Arkansas, I having taken said Charles A. M. Schlierholz into
7 my custody under said *said* warrant, in Independence county, Arkansas, on the 23rd day of May, 1899, a copy of which warrant is hereto annexed, marked Exhibit "B," and made a part hereof, which said warrant is numbered 409; which said warrant was issued upon an indictment, duly returned into the circuit court of Independence county, State of Arkansas, by the grand jury of said Independence county on the 7th day of April, 1899, the same being a day of the spring term, 1899, of the said circuit court, the said Charles A. M. Schlierholz being charged in the said indictment with unlawfully marking timber in violation of the statute laws of the State of Arkansas.

Given under my hand as sheriff of said Independence county, Arkansas, this 26th day of May, 1899.

(Signed) JOHN A. HINKLE, *Sheriff.*

Filed in my office May 26th, 1899.

JOSEPH W. PARSE, *Clerk.*

8 *Bench Warrant.*

State of Arkansas to any sheriff, constable, or policeman of this State:

You are commanded forthwith to arrest Charles A. M. Schlierholz and bring him before the Independence circuit court to answer an indictment in that court against him for the offense of unlawfully taking possession of timber, or, if the court be adjourned for the term, that you deliver him to the jailor of Independence county.

Witness my hand and the seal of said court this 21st day of April, A. D. 1899.

WILL HAIL, *Clerk,*
By T. H. DEARING, *D. C.*

(Indorsed on back as follows:) No. 410. Bench warrant. Independence county. State of Arkansas *vs.* Chas. A. M. Schlierholz. The defendant has been admitted to bail in the sum of two hundred dollars, and the same may be taken by the sheriff of the county in which he may be arrested or by the sheriff of Independence county. Will Hail, clerk, by T. H. Dearing, D. C.

9 *Bench Warrant.*

State of Arkansas to any sheriff, constable, or policeman of this State:

You are commanded forthwith to arrest Charles A. M. Schlierholz and bring him before the Independence circuit court to answer an indictment in that court against him for the offense of unlawfully marking timber, or, if the court be adjourned for the term, that you deliver him to the jailor of Independence county.

Witness my hand and the seal of the said court this 21st day of April, A. D. 1899.

WILL HAIL, *Clerk*,
By T. H. DEARING, *D. C.*

Indorsed on the back as follows: No. 409. Bench warrant. Independence county. State of Arkansas *vs.* Chas. A. M. Schlierholz. The defendant is to be admitted to bail in the sum of two hundred dollars, and the same — be taken up by the sheriff of the county in which he may be arrested, or by the sheriff of Independence county. Will Hail, clerk, by T. H. Dearing, D. C.

10 To the Honorable John A. Williams, judge of the district court for the northern division of the eastern district of the State of Arkansas:

The State of Arkansas, by S. D. Campbell, prosecuting attorney for the third judicial district thereof, for its response to the petition of Charles A. M. Schlierholz herein states that Charles A. M. Schlierholz, misconceiving *and* being outside of his duties as special agent of the General Land Office of the United States and outside of his instructions, and contrary to the laws of the United States and all rules of any department thereof, and without process of any kind or any authority of law, but ignoring all laws, regulations, and requirements of the United States or the departments thereof, on or about the 10th day of April, 1898, made personal seizures of the timber of C. W. Hamilton, J. M. Hamilton, and W. J. Keener, said timber then and there belonging to and being in the possession of said C. W. Hamilton, J. M. Hamilton, and W. J. Keener, and placed the mark "U. S." upon said timber, said acts being in direct violation of sections 6140 and 6142 of Sandels and Hill's Digest of the Statutes of the State of Arkansas.

That on the 7th day of April, 1899, the same being a day of the spring term of the circuit court of Independence county, said court having jurisdiction of such offenses, the grand jury thereof duly returned into open court an indictment for unlawfully marking timber against the said Charles A. M. Schlierholz, which indictment is numbered 409, a certified copy of which is hereto attached as Exhibit "B" and made a part hereof; and on the same day said grand jury duly returned into open court against the said Schlierholz an indictment charging said Schlierholz with unlawfully taking possession of timber; a certified copy of said indictment is hereto attached as Exhibit "A" and made a part hereof.

11 And thereafter, on the 21st day of April, 1899, bench warrants were duly issued out of said court on said indictments, respectively, which were made exhibits to the petition herein, on which said warrants was indorsed the order of said courts allowing the defendant to be admitted to bail in the sum of two hundred dollars in each case for his appearance at the next (fall) term of the said court.

Copies of said warrants are exhibited with the sheriff's response

herein and made a part hereof, and that the sheriff arrested and had in his custody the said Schlierholz by virtue of the said warrants aforesaid.

Respondant denies that the timber so seized was unlawfully cut from any lands of the United States, but says the same was the property of the said C. W. Hamilton, J. M. Hamilton, and W. J. Keener, and says that petitioner had no authority by virtue of any laws or rules or instructions of any department of the Government of the United States to make personal seizures of said timber or to mark or brand such timber so personally seized by said petitioner.

Respondant denies that petitioner was in the discharge of his duties as such special agent when making such seizures and branding and marking such timber aforesaid, and denies that he was acting under any regulations or instructions of the General Land Office of the United States, which authorized him to take personal possession of the timber by threats and intimidations against the owners and parties in possession of said timber, which was resorted to by the said petitioner for the purpose of getting possession of said timber.

Denies that the grand jury of the Independence county circuit court returned said indictments at the investigation of any parties who desired to embar-ass the petitioner in the discharge of any duty imposed upon him by the United States, but that said indictments were returned by the grand jury as they were required by their oaths to do, and acting under the instructions of the judge of said court in the fearless and impartial discharge of their duty
12 under the law and the oaths of said grand jurors.

Respondent says that its courts are fully and fairly constituted to afford the said Schlierholz a full and fair opportunity to be heard of and concerning any defense he may have in the said prosecution against him, and he is guaranteed by the constitution and laws of the said State a fair and impartial trial in the courts thereof.

And respondent further says that by reason of the matters and things set out therein that your honor, as judge of the district court of the United States, should not grant the prayer of petitioner for a discharge from the jurisdiction of the said State court.

Wherefore he prays that the writ of *habeas corpus* be denied and set aside, and that the defendant be remanded to the custody of the sheriff of Independence county.

(Signed) S. D. CAMPBELL,
Prosecuting Attorney.

EXHIBIT "A."

n the Independence Circuit Court, Spring Term, 1899.

STATE OF ARKANSAS
against
CHARLES A. M. SCHLIERHOLZ. } Indictment.

grand jury of Independence county, in the name and by hority of the State of Arkansas, accuse Charles A. M. Schlier- the crime of unlawfully taking possession of timber, com- as follows, to wit:

said Charles A. M. Schlierholz, in the county and State afore- n the 10th day of April, 1898, did unlawfully take possession ain logs and sticks of timber lying and being in White river, l county and State, the said Charles A. M. Schlierholz then here not being the owner of said logs and sticks of timber ot being the agent of such owner, against the peace and y of the State of Arkansas.

II.

l the grand jury aforesaid, in the name and by the authority aid and by way of charging the same offense in a different accuse the said Charles A. M. Schlierholz of the crime of fully taking possession of timber, committed as follows, to

t the said Charles A. M. Schlierholz, in the county and State aid, on the 10th day of April, 1898, did unlawfully take pos- n of certain logs and sticks of timber lying and being on the s of White river, in the said county and State, the said Charles Schlierholz then and there not being the owner of said logs ticks of timber and not being the agent of such owner, against eace and dignity of the State of Arkansas.

S. D. CAMPBELL,
Prosecuting Att'y.

d indictment is endorsed as follows, to wit: No. 410. State of nsas *v.* Charles A. M. Schlierholz. A true bill. J. C. McGuire, an. Indictment for unlawfully taking possession of timber. esses: C. W. Hamilton, J. M. Hamilton, W. J. Keener. Filed 7th, 1899, in open court, in the presence of the entire grand by the foreman thereof. W. A. Hail, clerk, by T. H. Dearing,

E OF ARKANSAS,
County of Independence. }

Will Hail, clerk of the circuit court of the county and State esaid, do hereby certify that the above and foregoing is a full, , and correct copy of an indictment against Charles A. M.

Schlierholz and all indorsements thereon now on file in my office and numbered 410.

In witness whereof I have hereunto set my hand and the seal of said court this 24th day of May, 1899.

[SEAL.] WILL HAIL, *Clerk.*

14 EXHIBIT "B."

In the Independence Circuit Court, Spring Term, 1899.

STATE OF ARKANSAS
against
CHARLES A. M. SCHLIERHOLZ. } Indictment.

The grand jury of Independence county, in the name and by the authority of the State of Arkansas, accuse Charles A. M. Schlierholz of the crime of unlawfully marking timber, committed as follows, to wit:

The said Charles A. M. Schlierholz, in the county and State aforesaid, on the 10th day of April, 1898, did unlawfully make and place and cause to be made and placed the mark consisting of the letters, to wit, "U. S." upon certain logs and sticks of timber then and there being upon and in White river, in said county and State, the said Charles A. M. Schlierholz then and there not being the owner of said logs and sticks of timber and not being the agent of such owner, against the peace and dignity of the State of Arkansas.

II.

And by way of charging the same offense in a different mode, the grand jury aforesaid, in the name and by the authority aforesaid, accuse the said Charles A. M. Schlierholz of the crime of unlawfully marking timber, committed as follows, to wit:

The said Charles A. M. Schlierholz, in the county and State aforesaid, on the 10th day of April, 1898, did unlawfully make and place and cause to be made and placed the mark consisting of the letters, to wit, "U. S." upon certain logs and sticks of timber then and there being upon and near the banks and shores of White river, in said county and State, the said Charles A. M. Schlierholz then and there not being the owner of said logs and sticks of timber and not being the agent of such owner, against the peace and dignity of the State of Arkansas.

S. D. CAMPBELL,
Prosecuting Attorney.

Said indictment is endorsed as follows: No. 409. State of Arkansas *v.* Charles A. M. Schlierholz. A true bill. J. C. McGuire, foreman. Indictment for unlawfully marking timber. Witnesses: C. W. Hamilton, J. M. Hamilton, W. J. Keener. Filed April 17th, 1899, in open court, in the presence of the entire grand jury, by the foreman thereof. W. A. Hail, clerk, by T. H. Dearing, D. C.

E OF ARKANSAS,
County of Independence.

Will Hail, clerk of the circuit court of the county and State said, do hereby certify that the above and foregoing is a full, and correct copy of an indictment against Charles A. M. Schlier- and all endorsements thereon now on file in my office and bered 409.

witness where- I have hereunto set my hand and have affixed seal of said court this the 24th day of May, 1899.

WILL HAIL, *Clerk.*

Re CHARLES A. M. SCHLIERHOLZ.

Now, on this day, comes John A. Hinkle, sheriff of Independence nty, and on his motion this cause is ordered to be transferred to district court of the United States for the northern division of eastern district of Arkansas; and thereupon came said sheriff State of Arkansas, by S. D. Campbell, Esq., State's attorney, file a response to the petition herein; and thereupon this cause ne on for hearing, both parties being ready, and the court, hav- heard the evidence, finds that the said petitioner, Charles A. M. lierholz, was in the performance of his duties as a special agent the General Land Office of the United States, and the actions rged in the said indictments set out in the response were per- med by him as such officer and in strict conformity with the les and regulations of the Secretary of the Interior of the United tes, and that his detention and arrest by the sheriff of Independ- ce county, State of Arkansas, was illegal and void.

It is therefore ordered and adjudged by the court that the said harles A. M. Schlierholz be discharged from the custody of said eriff under the writ in the petition and response set out and go nce without day.

And at the request of the attorney for the State 30 days' time is anted for a bill of exceptions.

In the United States District Court for the Northern Division of the Eastern District of Arkansas.

CHARLES A. M. SCHLIERHOLZ, *Ex Parte.*

Be it remembered that at a term of the United States district ourt for the northern division of the eastern district of Arkansas, olden at Batesville, Arkansas, in the proceeding for the discharge f Charles A. M. Schlierholz, under *habeas corpus*, on the 26th day f May, 1899, being a day of the May term, 1899, of said court, n the hearing if said petition, the following evidence was intro- uced and exceptions were saved, to wit:

"On behalf of the petitioner and respondents, the State and Hinkle, sheriff, the following facts were agreed upon by counsel nd are to be read at the trial of this cause:

The petitioner was indicted by the grand jury of the Independence county circuit court at the spring term, 1899, in two cases, two copies of which are filed with the response of the sheriff and the State; that the petitioner, Charles A. M. Schlierholz, at the time he made the seizures and branded the same with the brand of the United States, was a special agent of the General Land Office of the United States, duly commissioned as prescribed by law; that he is a resident and citizen of the State of Missouri and was sent to the State of Arkansas by his superior officer, the Commissioner of the General Land Office, with instructions and directions to investigate certain alleged trespasses committed in the State of Arkansas on the public domain by parties cutting unlawfully timber from lands belonging to the United States; that he had instructions which were furnished hi*n* by the Department of the Interior and which had been prepared by the Commissioner of the General Land Office and approved by the Secretary of the Interior
17 of the United States, which were the following:

'That any special agent is directed to seize any timber cut and taken away from the lands of the United States wherever it may be found and — whosever possession it may be found.' 'That whenever any special agent finds any timber in the possession of any person which he is satisfied from an investigation made by him has been unlawfully cut from the lands of the United States he shall seize the same from any person in the possession of the same wheresoever found and brand the same as the property of the United States with the brand "U.S.," provided that the party in possession of the same does not resist such seizure or same does not cause a breach of the peace, but if the party in whose possession it is resists such seizure or it is likely to cause a breach of the peace he shall cause the attorney of the United States for the district to institute legal proceedings for the seizure or recovery of such timber, and any timber thus seized by the land department, through its officers or special agents, may be disposed of by that department in such manner as it may determine.'

That the department furnished to the said Schlierholz a branding iron with the letters 'U. S.' on it; that the timber seized and branded, for which acts these indictments *for which acts these indictments* were found, was at the time in the possession of the persons whose names are indorsed as witnesses on the indictments and was seized by the said Schlierholz while he was acting as such special agent of the General Land Office without resistance on the part of the persons in whose possession he found it, but was seized over and notwithstanding their protest, they at the time claiming ownership of the said timber; that at the time the said seizures were made the said Schlierholz believed that the said timber had been unlawfully cut from the public domain; that he reported the seizures immediately to the General Land Office, and his actions were ap-
18 proved by the Commissioner.

That at the time said seizures were made and the timber branded he had no writ or process from any court, but acted with no authority other than the directions and rules and regulations of

General Land Office of the United States, as hereinbefore re-
ed.

The respondent Hinkle had the prisoner in his custody by virtue
the warrants issued by the clerk of the Independence county
cuit court, Arkansas, copies of which are filed with the petition,
d that said warrants were in due form of law and based on the
o indictments filed with the response.

(Signed) JACOB TRIEBER,
U. S. Attorney, for Petitioner.
S. D. CAMPBELL,
Att'y for Respondents."

And to that part of the above statement of facts relating to the
les and regulations furnished said Schlierholz by the Commis-
oner of the General Land Office and the instructions and directions
om said Commissioner and department, and also to that part re-
ting to the furnishing of the branding iron with the letters
U. S." to said Schlierholz, the respondents, State of Arkansas and
inkle, by their attorney, on the ground that such evidence was
nmaterial and irrelevant, at the time objected, and, their objections
eing overruled, they duly excepted thereto, which exceptions are
oted of record.

And this being all the evidence introduced upon said hearing by
ither side, except the petition for and writ of *habeas corpus* and
ie response of the State of Arkansas thereto and the return
ereto of John A. Hinkle as sheriff of Independence county,
Arkansas.

9 (Thereupon the court found "that the petitioner, Charles
A. M. Schlierholz, was in the performance of his duties as a
pecial agent of the General Land Office of the United States, and
he actions charged in the said indictments set out in the response
were performed by him as such officer and in strict conformity with
he rules and regulations of the Secretary of the Interior of the
Jnited States, and that his arrest and detention by the sheriff of
Independence county, State of Arkansas, is illegal and void;" to
which findings the respondents, State of Arkansas and Hinkle, at
he time duly saved their exceptions, which are noted of record,
nd the court thereupon discharged said Charles A. M. Schlierholz
rom the custody of said sheriff; to which order and action of the
ourt the said respondants at the time excepted, and their excep
ions are noted of record.)

This bill of evidence and exceptions now being presented to the
court within the thirty days allowed for so doing, to the end that it
may be signed by the judge and made a part of the record herein,
the same is now accordingly signed by the judge of the said court
and ordered to be made a part of the record in said cause.

JNO. A. WILLIAMS, *Judge.*

20 In the United States District Court for the Northern Division of the Eastern District of Arkansas.

CHARLES A. M. SCHLIERHOLZ, *Ex Parte.*

Assignment of Error.

Come the State of Arkansas and John A. Hinkle, as sheriff of Independence county, Arkansas, and assign as errors in the decree of the honorable the United States district court for the northern division of the eastern district of Arkansas herein the following causes:

1. That under the terms of the acts of Congress relating to proceedings in *habeas corpus* there was no jurisdiction of the said court to release the petitioner, Charles A. M. Schlierholz, from the custody of John A. Hinkle, as sheriff of Independence county, State of Arkansas, under the warrants exhibited herein.

2. That the said court, upon discovering the said petitioner, Charles A. M. Schlierholz, was held under warrants issued by a court of said State for improperly taking possession of and marking timber without any process of law, should have remanded him to the State officer and not discharged him from said process.

3. That said court ignored that provision of the Constitution of the United States, being the fourth amendment, which protects the people against unreasonable seizures.

4. That said court ignored the provisions of said Constitution, being the fifth amendment thereto, which says that no person shall be deprived of his property without due process of law, and
21 that private property shall not be taken for public use without just compensation.

5. That said court ignored the provision of said Constitution of the United States, being the eleventh amendment thereto, which reserves to the States or to the people therein the powers not delegated to the United States.

6. That by the decision of said court the jurisdiction of the circuit court of the said State of Arkansas to try the petitioner upon indictment duly found is taken away without providing a remedy whereby the petitioner may be made answerable for a disregard of its laws, he at the same time not being in the legal discharge of any duty upon legal warrant duly issued, under any act of Congress in such cases made and provided.

7. That the court erred in permitting the introduction in evidence of the rules, regulations, and instructions under which said Schlierholz acted.

And for the errors aforesaid the said State of Arkansas and said John A. Hinkle as such sheriff pray an appeal from the decree of said district court to the Supreme Court of the United States, and that the decree of said court in releasing said Charles A. M. Schlierholz be reversed, set aside, and held for naught.

(Signed) JEFF. DAVIS,
Attorney General of Ark.,
S. D. CAMPBELL,
Prosecuting Attorney for 3rd Judicial District of Arkansas
Attorneys for State of Arkansas and John A. Hinkle, Sheriff.

22 C. A. M. SCHLIERHOLZ, *Ex Parte.*

State of Arkansas and John A. Hinkle, sheriff of Independence county, Arkansas, by Jeff. Davis, attorney general of the said State, and S. D. Campbell, prosecuting attorney for the third judicial circuit for said State, their attorneys, having presented their bills of exceptions, the same is now duly signed by the judge of this court and ordered to be filed and made a part of the record in this cause; and the State of Arkansas and John A. Hinkle, as such sheriff, by their said attorneys, having filed their assignment of errors and praying an appeal from the decree of the court discharging Charles A. M. Schlierholz from the custody of John A. Hinkle, sheriff of Independence county, Arkansas, to the Supreme Court of the United States, the same is hereby granted, and the said appellants have been required to file their bond for the costs of this appeal in the penal sum of two hundred and fifty dollars, and said bond being herewith exhibited, the same is hereby approved.

And at the request of the said State of Arkansas and John A. Hinkle, as sheriff, the following questions, among others involved herein, are certified to the said Supreme Court of the United States:

1. Whether this court has jurisdiction in the premises to discharge the petitioner, Charles A. M. Schlierholz, from the custody of John A. Hinkle, sheriff of Independence county, Arkansas, for the matters and things and under the circumstances set out in the record in this cause.

2. Whether the proper order of this court under the facts should have been to remand said petitioner to the custody of the said sheriff of Independence county, Arkansas, to be dealt with by the Independence circuit court of the State, or to discharge him from said custody.

(Clerk will please enter this order.)

JNO. A. WILLIAMS, *Judge.*

23 Supreme Court of the United States.

STATE OF ARKANSAS and JOHN A. HINKLE, as Sheriff of Independence County, Arkansas, Appellants,
vs.
CHARLES A. M. SCHLIERHOLZ, Appellee.

Cost Bond.

Know all men by these presents that the State of Arkansas and John A. Hinkle, as sheriff of Independence county, Arkansas, as principals, and J. C. Yancey and S. D. Campbell, as sureties, are held and firmly bound unto Charles A. M. Schlierholz in the sum of two hundred and fifty dollars, to be paid to the said Charles A. M. Schlierholz, his executors or administrators; to which payment, well and truly — be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals; dated this 12th day of June, 1899.

Whereas the above-mentioned State of Arkansas and John A. Hinkle, as sheriff of Independence county, Arkansas, have prosecuted an appeal to the Supreme Court of the United States to reverse a decree rendered in the above-entitled cause upon petition for release under *habeas corpus* filed by the said Charles A. M. Schlierholz in the United States district court for the northern division of the eastern district of Arkansas by the said district court: Now, therefore, the condition of this obligation is such that if the said State of Arkansas and John A. Hinkle, as such sheriff, shall prosecute their said appeal to effect and answer all costs if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

24 Signed, sealed, and delivered in the presence of—

(Signed) STATE OF ARKANSAS AND
JOHN A. HINKLE,
Sheriff of Independence County, Ark.,
By S. D. CAMPBELL,
Prosecuting Att'y.
J. C. YANCEY.
S. D. CAMPBELL.

STATE OF ARKANSAS, }
County of Independence. }

J. C. Yancey and S. D. Campbell, being duly sworn, say on their separate oaths that they each and severally have and own personal and real property in the State of Arkansas in excess of their liabilities and exemptions and subject to execution to the amount of two hundred and fifty dollars.

(Signed) J. C. YANCEY.
S. D. CAMPBELL.

Subscribed and sworn to before me this 12th day of June, 1899.
J. F. GAUTNEY,
Notary Public.

Commission expires March 1st, 1901.

25 The United States of America to Chas. A. M. Schlierholz Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday of October next, pursuant to an appeal granted by the district court of the United States for the northern division, eastern district of Arkansas, wherein State of Arkansas and John A. Hinkle, as sheriff of Independence county, Arkansas, are appellants, and you are appellees, to show cause, if any there be, why the decree rendered against the said appellants, as in the said appeal mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable John A. Williams, judge of the district court, this 15th day of June, A. D. 1899.

JNO. A. WILLIAMS.

I, as attorney for Charles A. M. Schlierholz, and also as United States district attorney for the eastern district of Arkansas, hereby accept service and acknowledge same and receipt of copy of the foregoing citation, waiving any further or other service, on this the 15th day of June, A. D. 1899, at the city of Little Rock, Arkansas.

JACOB TRIEBER,
U. S. Att'y, for Chas. A. M. Schlierholz.

[Endorsed:] *Re* C. A. M. Schlierholz. Citation. Filed in my office June 15, 1899. Joseph W. Parse, clerk.

26 UNITED STATES OF AMERICA,
Northern Division of the Eastern District of the State of Arkansas, } ss:

I, Joseph W. Parse, clerk of the circuit & dist. courts for the northern division of the eastern district of Arkansas, do hereby certify that the attached, annexed, and foregoing 25 pages comprise a true, perfect, and complete transcript of all the original papers and record on file in my office in the case of State of Arkansas *versus* Charles A. M. Schlierholz.

Given under my hand and seal of office, at Batesville, Arkansas, on the 28th day of July, A. D. 1899.

{ The Seal of the Circuit Court, Northern Division, U. S. A., of East. Dist. Ark. }

JOSEPH W. PARSE.

Endorsed on cover: File No., 17,494. E. Arkansas D. C. U. S. Term No., 380. The State of Arkansas and John A. Hinkle, as sheriff of Independence county, Arkansas, appellants, *vs.* Charles A. M. Schlierholz. Filed August 19th, 1899.